Coronavirus Aid, Relief and Economic Security (CARES) Act of 2020
Key Provisions for Gresham Clients

For Individuals

Delayed Due Dates for Tax Returns, Payments and IRA Contributions

The IRS and Treasury have issued guidance outside of the CARES Act providing that federal income, gift and generation-skipping tax returns for 2019 and any balances due on them are now due this July 15th instead of April 15th. The deadline for making 2019 IRA and Roth IRA contributions is also now July 15th. Returns can still be extended to October 15th.

- Federal first-quarter estimated income tax payments for 2020 also are now due this July 15th instead of April 15th, but second-quarter payments remain due on June 15th.
- Many states are providing similar – but not necessarily identical – delays in filing and payment due dates.

Enhanced Charitable Contributions

Cash contributions to a qualified public charity (private family foundations generally are not considered public charities), other than a donor-advised fund or a 509(a)(3) supporting organization:

- Are deductible for 2020 up to a limit of 100% of Adjusted Gross Income (AGI) instead of the normal 50%-of-AGI limit for individuals who itemize, with any excess carried forward as before.
- Qualify for a $300 above-the-line annual allowance for individuals who do not itemize.

No Required Minimum Distributions from IRAs and Retirement Plans

Individuals who were required to receive a minimum distribution from their IRAs or 401(k), 403(a) or 403(b) retirement plans for 2020, as well as beneficiaries of IRAs or retirement plan accounts, do not need to receive a required minimum distribution this year.

- Individuals who have already taken distributions from their IRAs or retirement plans in 2020 may be eligible to roll over the distributions on a tax-free basis to the same or other IRAs or retirement plans.
- Beneficiaries of IRAs and retirement plans, however, are not eligible to roll over distributions.

Special Early Distributions and Loans from IRAs and Retirement Plans

An individual who tested positive for the coronavirus using a CDC-approved test, or whose spouse or a dependent tested positive with such a test, or who experienced adverse financial consequences caused in specified ways by the virus:

- May take early distributions from IRAs or retirement plans in 2020 totaling up to $100,000 that are exempt from the 10% early withdrawal penalty. These amounts can be reported as income spread over three years or put back into the IRAs or retirement plans during that period and be treated as a qualifying rollover with no income tax due.
- May take out loans of up to $100,000 (instead of the regular limit of $50,000) from a retirement plan account during the 180 days after March 27, 2020.

Relief Provided for Renters

Landlords of properties with federally-backed mortgages can't charge any fees or penalties or evict renters for nonpayment of rent for 120 days from March 27, 2020.

One-Time Payments from the Federal Government

Individuals with income below a certain threshold (including non-dependent children or grandchildren) might qualify to receive a one-time payment from the Federal government.

- An individual with AGI < $75,000 who is not claimed as a dependent on someone else's tax return will receive $1,200 and a couple with AGI < $150,000 will receive $2,400, plus $500 for each dependent child under age 17.
- These payments scale down to $0 as AGI increases to $99,000 for an individual and $198,000 for a couple with no dependent children under age 17, and payments for these dependent children increase the AGI maximums by $10,000 per child.
- The IRS will calculate the payment based on the taxpayer's 2019 federal income tax return, the 2018 return if a 2019 return has not been filed yet or reported Social Security earnings if no return has been filed for either year.
- The payment is not taxable income and it will be treated as an advance of a tax credit that will be applied on the taxpayer's 2020 return. This approach addresses the need to use 2019 or 2018 income, instead of 2020 income, to calculate the payment in 2020.

For Businesses (C-Corporations, Pass-Through Entities and Sole Proprietors)

Overview

Several provisions in the Act affect both large and small businesses, including provisions that change the deductibility of net operating losses, relax limits on deducting certain interest payments and modify depreciation rules for Qualified Improvement Property.

- Some of this financial assistance is targeted to large companies (those with between 500 and 10,000 employees), such as the $454 billion lending facility to be provided by the Federal Reserve and another $29 billion for direct lending to passenger and cargo carriers.
- We have listed below a few business provisions in the Act that we believe have broader applicability among Gresham's client base. However, there are specific criteria and technical requirements to qualify for each, so you should consult your tax advisor for more information on how these and other provisions of the Act may affect your business.

Deferral of Employer Social Security Taxes and Self-Employment Payroll Taxes

The Act allows employers to defer 100% of their portion (6.2%) of social security taxes and self-employed individuals to defer 50% of their self-employment taxes, but it does not address Medicare taxes.

- This deferral applies to these payroll taxes due for the period beginning on March 27, 2020 and ending on December 31, 2020.
- Half of the deferred payroll taxes are due on December 31, 2021 with the other half due on December 31, 2022, except that this deferral terminates if the taxpayer has a portion or all of a loan forgiven under the "Paycheck Protection Program".

Employee Retention Credit

The Act grants eligible employers and certain nonprofits a refundable payroll tax credit for 50% of qualified wages paid to certain employees from March 13, 2020 through December 31, 2020.

- The maximum credit is $5,000 per employee, based on maximum qualified wages of $10,000 per employee.
- This provision is applicable to employers carrying on a trade or business during 2020 whose operations were fully or partially suspended due to orders from a governmental authority related to COVID-19, or whose gross receipts declined by more than 50% compared to the same period in a prior year.
- An employer receiving certain loans under the "Paycheck Protection Program" described below is not eligible for the credit.

SBA Loans "Paycheck Protection Program"

A new SBA 7(a) program generally will make loans available based on the period from February 15, 2020 through June 30, 2020 to businesses that have 500 or fewer employees.

- The number of employees includes employees of all affiliates, even if they operate as separate businesses and merely share common ownership, such as businesses owned by a private equity firm, subject to limited exceptions for certain types of businesses.
- The maximum loan amount is the lesser of (i) 2.5 times average trailing twelve months' payroll costs up to $100,000 per employee, and (ii) $10 million. There are other measurement periods for new or seasonal businesses.
- Loan proceeds may be used for payroll costs, rent, utilities, certain healthcare benefits and interest on certain debt. The maximum annual interest rate on the loans is 4%, the loans are non-recourse and they do not require personal guarantees.
- A loan's principal but not its interest may be forgiven in an amount that does not exceed the sum of certain costs (e.g., payroll, certain interest, utilities and rent) incurred over a defined period if the employer meets certain criteria regarding maintaining its employee headcount and compensation.
- To the extent a loan is not forgiven, it has a maximum maturity of 10 years from the date the employer applies for loan forgiveness.
- Applications for this program must be submitted to a SBA-approved lender and it is expected that a list of such lenders, as well as application process details, will be forthcoming from the SBA in the next few weeks.

This material contains information and comments on tax and legal issues and developments of interest to our clients and friends. The foregoing is not a comprehensive treatment of the subject matter covered and is not intended to provide legal or tax advice. Readers should seek legal and tax advice before taking any action with respect to the matters discussed herein.